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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DAVID AND NATASHA WIT, *et al.*,
Plaintiffs,

v.

UNITED BEHAVIORAL HEALTH,
Defendant.

Case No. 3:14-CV-02346-JCS
Related Case No. 3:14-CV-05337-JCS

**STIPULATED APPLICATION AND
~~[PROPOSED]~~ ORDER FOR LEAVE TO
ENGAGE CONSULTANTS**

GARY ALEXANDER, *et al.*,
Plaintiffs,
v.
UNITED BEHAVIORAL HEALTH,
Defendant.

1 The Special Master submits this application for leave to engage Professors Donald T.
 2 Bogan and Henry Eickelberg as consultants to assist the Special Master in discharging his duties
 3 under the Court's January 27, 2021 Order Appointing Special Master. (*Wit* Docket No. 528.)
 4 Plaintiffs and Defendant United Behavioral Health stipulate and agree to this application.

5 The Court's Appointment Order provides that the Special Master's duties include the duty
 6 of "[o]verseeing and verifying the development and implementation of the mandatory training
 7 program regarding UBH's duties under ERISA, including what it means to be an ERISA
 8 fiduciary and to administer benefit plans solely in the interests of participants and beneficiaries, as
 9 well as the need to comply with plan terms, as set forth in Remedies Order." (*Wit* Docket No. 528
 10 at 8.)

11 The parties identified Professors Bogan and Eickelberg as potential consultants on the
 12 subject of UBH's duties under ERISA, including what it means to be an ERISA fiduciary and to
 13 administer benefit plans solely in the interests of participants and beneficiaries, as well as the
 14 need to comply with plan terms, as set forth in Remedies Order.¹ Specifically, the parties
 15 identified Professors Bogan and Eickelberg as potential consultants to develop and conduct live
 16 (via videoconference) trainings on UBH's fiduciary duties under ERISA for certain of UBH's
 17 employees.

18 The Special Master has concluded that Professors Bogan and Eickelberg would provide
 19 necessary and appropriate assistance to the Special Master in the discharge of his duties relating
 20 to the development and implementation of the mandatory training program regarding UBH's
 21 fiduciary duties as set forth in section IV.B.3.

22 Professor Bogan is the Frank Elkouri and Edna Asper Elkouri Professor of Law at the
 23 University of Oklahoma College of Law, where he teaches courses on Health Law. Professor
 24 Bogan has contributed to several chapters of the American Bar Association's treatise on
 25 Employee Benefits Law, *Employee Benefits Law* (Lewis, Rumeld, LeBeau, eds., 3d ed. 2009),
 26

27 _____
 28 ¹ Although Plaintiffs objected to the nomination of Professor Eickelberg, the Special Master
 overruled that objection on June 18, 2021.

1 and routinely publishes on topics of employee benefits law and ERISA. Professor Bogan is an
 2 elected Fellow of the American College of Employee Benefits Counsel.

3 Professor Eickelberg is an adjunct professor of law at the Georgetown University Law
 4 Center and Washington University in St. Louis. At Georgetown, Professor Eickelberg has been
 5 teaching for fifteen years and runs the LL.M. ERISA certificate program and was the 2015
 6 recipient of the Charles Fahy Distinguished Adjunct Professor Award. He currently co-teaches a
 7 course on the practical application of ERISA principles as applied to retirement plans, health and
 8 welfare plans, and executive compensation. Previously, Professor Eickelberg was the corporate
 9 Vice President of Human Resources and Shared Services for a large employer, where he oversaw
 10 the company's ERISA benefit appeals process and conducted ERISA trainings for the company's
 11 employees involved in benefit determinations. Professor Eickelberg was appointed by President
 12 Obama in 2016 to serve on the Advisory Committee for the Pension Benefit Guaranty
 13 Corporation ("PBGC Advisory Committee") and in 2019 he was appointed by President Trump to
 14 serve as chair of the PBGC Advisory Committee. Professor Eickelberg is a Fellow and former
 15 officer and board member for the American College of Employee Benefits Counsel and he is a
 16 Senior Fellow at the American Health Policy Institute. Professor Eickelberg is the former
 17 Chairman of the American Benefits Council, and served on the Bloomberg BNA ERISA
 18 Advisory Board.

19 Accordingly, the Special Master requests, and the parties stipulate, that the Court enter the
 20 accompanying [Proposed] Order providing leave for the Special Master to engage Professors
 21 Eickelberg and Bogan.

22
 23 Respectfully Submitted,

24 Dated: June 24, 2021

FARELLA BRAUN + MARTEL

/s/ Douglas R. Young

Douglas R. Young
 Special Master

SO STIPULATED:

Dated: June 23, 2021

ZUCKERMAN SPAEDER LLP

/s/ Caroline E. Reynolds

Caroline E. Reynolds

Adam Abelson

Dated: June 23, 2021

PSYCH-APPEAL, INC.

/s/ Meiram Bendat

Meiram Bendat

Attorneys for the Plaintiff Classes

Dated: June 23, 2021

CROWELL & MORING LLP

/s/ Andrew Holmer

Jennifer S. Romano

April N. Ross

Andrew Holmer

*Attorneys for Defendant United Behavioral
Health*

**PURSUANT TO THE SPECIAL MASTER'S APPLICATION AND THE PARTIES'
STIPULATION, IT IS SO ORDERED.**

Date: June 24, 2021



The Honorable Joseph C. Spero
Chief United States Magistrate Judge

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